
AGENCY: Executive Director

SUBJECT: Qualified Public Educational Facilities (2020 Volume Cap Carryforward)

Internal Revenue Code Section 26 U.S.C. Section 142(k) for qualified public educational facilities and Section 142(a)(13) were added by Section 422(a) and (b) of P.L. 107-16 in 2001. Section 142(k) provides a separate and independent volume cap for qualified public educational facilities to be used for the issuance of bonds for public educational facilities. These bonds are not subject to the general volume limitation under Code Section 146 but are subject to a separate volume limitation set forth in Code Section 142(k). No regulations for this provision have been promulgated.

The volume cap for qualified public educational facilities is governed by Section 142(k)5. That Section provides, in part, the following:

(B) Allocation rules.

....

(ii) Rules for carryforward of unused limitation. A State may elect to carry forward an unused limitation for any calendar year for 3 calendar years following the calendar year in which the unused limitation arose under rules similar to the rules of Section 146(f), except that the only purpose for which the carryforward may be elected is the issuance of exempt facility bonds described in subsection (a)(13).

The volume cap for calendar year 2020 is \$50,841,270 and has been unused. The Authority is asked to elect to carryforward the entire volume cap for 2020 to be used for the issuance of bonds for qualified public educational facilities as described in Section 142(a)(13) and authorize the filing of a carryforward election with the Internal Revenue Service in connection with such allocation. Pursuant to Section 142(k)(5)(B)(ii) the carryforward will be valid for the next three calendar years.

AUTHORITY ACTION REQUESTED:

Approve the carryforward of the unused volume cap allocation for qualified public educational facilities for calendar year 2020 to be used for the issuance of such bonds and authorize the filing of a carryforward election with the Internal Revenue Service in connection with such allocation to be valid for the next three calendar years.

ATTACHMENTS:

Internal Revenue Code 26 U.S.C. Section 142; Certification of 2020 State Ceiling for Qualified Public Educational Facilities Bonds

26 U.S.C.

Unified States Code, 2011 Edition

Title 26 - INTERNAL REVENUE CODE

Subtitle A - Income Taxes

CHAPTER 1 - NORMAL TAXES AND SURTAXES

Subchapter B - Computation of Taxable Income

PART IV - TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS

Subpart A - Private Activity Bonds

Sec. 142 - Exempt facility bond

From the U.S. Government Printing Office, www.gpo.gov

\142. Exempt facility bond

(a) General rule

For purposes of this part, the term "exempt facility bond" means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

- (1) airports,
- (2) docks and wharves,
- (3) mass commuting facilities,
- (4) facilities for the furnishing of water,
- (5) sewage facilities,
- (6) solid waste disposal facilities,
- (7) qualified residential rental projects,
- (8) facilities for the local furnishing of electric energy or gas,
- (9) local district heating or cooling facilities,
- (10) qualified hazardous waste facilities,
- (11) high-speed intercity rail facilities,
- (12) environmental enhancements of hydroelectric generating facilities,
- (13) qualified public educational facilities,
- (14) qualified green building and sustainable design projects, or
- (15) qualified highway or surface freight transfer facilities.

(b) Special exempt facility bond rules

For purposes of subsection (a)—

(1) Certain facilities must be governmentally owned

(A) In general

A facility shall be treated as described in paragraph (1), (2), (3), or (12) of subsection (a) only if all of the property to be financed by the net proceeds of the issue is to be owned by a governmental unit.

HENRY MCMASTER, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



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January 2, 2020

**CERTIFICATION OF
2020 STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS
ESTABLISHED IN TAX REFORM ACT OF 1986, AS AMENDED**

In accord with Section 1-11-500 of the Code of Laws of South Carolina, 1976, as amended, which is part of a plan for allocating the State Ceiling on the issuance of tax exempt private activity bonds established in the Tax Reform Act of 1986, as amended, I have determined that the most recent census estimate of the resident population of the State of South Carolina published by the Bureau of the Census before the beginning of 2020 is 5,148,714.

That population estimate is included in Census Bureau release CB19-198 dated December 30, 2019.

For calendar year 2020, the amount used under IRS Code § 146(d) to calculate the State ceiling for the volume cap for private activity bonds is \$10 per capita (as published by the IRS in Revenue Procedure 2019-44) multiplied by the State's population.

On that basis, I have calculated and I certify the 2020 state ceiling on the issuance of private activity bonds for the State of South Carolina, as established in the Tax Reform Act of 1986, as amended, to be \$51,487,140.

Delbert H. Singleton, Jr.
Secretary to the Authority